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HUMAN RIGHTS COMMITTEE
Seventy-fifth session

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 40 OF THE COVENANT

Concluding observations of the Human Rights Committee

YEMEN

1. The Committee considered the third periodic report of Yemen (CCPR/C/YEM/2001/3) at its 2027th and 2028th meetings (CCPR/C/SR.2027 and CCPR/C/SR.2028) on 17 and 18 July 2002 and adopted the following concluding observations at its 2036th meeting (CCPR/C/SR.2036) on 24 July 2002.

A. Introduction

2. The Committee welcomes the timely submission by the State party of a report containing important information on domestic legislation on the implementation of the Covenant. It notes with appreciation that the report contains useful information on some legal and institutional developments since the consideration of the second periodic report. It nonetheless regrets the lack of information on the jurisprudence and the practical aspects of the implementation of the Covenant. The Committee does note, however, the partial responses given in answer to the questions raised and the concerns expressed during the consideration of the report. It also welcomes the Yemeni delegation's expressed readiness to cooperate.

B. Positive aspects

3. The Committee welcomes the importance attached in article 6 of the Yemeni Constitution to the Universal Declaration of Human Rights. It also welcomes some human rights initiatives undertaken by the State party in recent years, in particular the appointment of a

Minister of State for Human Rights in 2001, and conclusion of a technical cooperation agreement with the Office of the United Nations High Commissioner for Human Rights (in keeping with the recommendation in the Committee's concluding observations of 3 October 1995, paras. 258 and 265) and with the International Labour Office to eradicate child labour and set up aid centres for disadvantaged children. It also notes the growing number of non-governmental organizations, particularly for the rights of women.

C. Principal subjects of concern and recommendations

4. The Committee regrets the lack of clarity about the question of the juridical value of the Covenant in domestic law and the consequences thereof.

> The State party should ensure that its legislation gives full effect to the rights acknowledged in the Covenant and that remedies are available for the exercise of those rights.

5. The Committee, while it takes note of the composition and functions of the Yemeni National Committee for Human Rights, which is a government commission, notes the absence of a human rights commission that is independent of the authorities and the lack of any plans in this connection.

> The State party should consider the establishment of an independent institution for the protection of human rights, with a mandate to receive complaints, to initiate inquiries and to institute proceedings where appropriate with complete independence.

6. The Committee notes with concern the continued practice of female genital mutilation (arts. 3, 6 and 7 of the Covenant). It is also concerned at the persistence of domestic violence despite the legislation passed by the State party (arts. 3 and 7 of the Covenant).

> The State party must pursue its efforts to eradicate such practices. It should in particular ensure that proceedings are instituted against the perpetrators and promote a human rights culture within society along with greater awareness of the rights of women, especially the right to physical integrity. It must also take more effective action to prevent and punish domestic violence and aid the victims.

7. The Committee notes with concern the situation of discrimination against women in matters of personal status, particularly in matters of marriage and divorce and the rights and duties of spouses.

> The State party should review its legislation to ensure that, in all fields in the life of society, women enjoy complete equality with men, both in law and in fact, so as to comply with its obligations under the Covenant (arts. 3, 7, 8, 17 and 26 of the Covenant).

8. The Committee notes with concern that married women may not, at least by law, leave their homes without the authorization of their husbands (arts. 3, 12 and 26 of the Covenant).

The State party should take appropriate measures to combat this practice and make sure, in fact and in law, that women's rights under articles 3, 12 and 26 of the Covenant are observed.

9. The Committee notes the persistence of the practice of polygamy, which is detrimental to human dignity and discriminatory within the meaning of the Covenant (arts. 3 and 26 of the Covenant).

The State party is strongly encouraged to abolish polygamy and combat it socially by effective means.

10. The Committee expresses its concern about the practice of early marriage of young girls and the inequality between men and women as regards marriageable age (arts. 3 and 26 of the Covenant).

The State party should protect girls from early marriage and do away with discrimination against women as regards marriageable age.

11. The Committee notes the discriminatory situation affecting women as regards the acquisition and transmission of nationality (arts. 3 and 26 of the Covenant).

The State party must eliminate from its legislation all discrimination between men and women as regards acquisition and transmission of nationality.

12. The Committee is concerned at the continued detention of women who have served their prison sentences and are held in detention because of social and family attitudes of rejection towards them (arts. 3, 9 and 26 of the Covenant).

The State party is encouraged to find appropriate solutions to enable these women to return to society.

13. While it welcomes the measures taken by the authorities in recent years to promote the participation of women in public life, the Committee notes the underrepresentation of women in the public and private sectors (arts. 3 and 26).

The State party is encouraged to pursue its efforts to secure better participation of women at all levels of society and of the State.

14. The Committee notes the lack of clarity in the legal provisions permitting the declaration of a state of emergency and derogation from the obligations established in the Covenant (art. 4 of the Covenant).

The State party should see to it that its legislation conforms to the provisions of the Covenant so as to ensure in particular that there are no breaches of non-derogable rights.

15. The Committee notes with concern that the offences punishable by the death penalty under Yemeni law are not consistent with the requirements of the Covenant and that the right to seek a pardon is not guaranteed for all on an equal footing. The preponderant role of the victim's family in determining on the basis of financial compensation whether or not the penalty is carried out is also contrary to articles 6, 14 and 26 of the Covenant.

The State party should review the question of the death penalty. The Committee points out that article 6 of the Covenant limits the circumstances that may justify the death penalty and guarantees the right of every convicted person to seek a pardon. Consequently, it calls upon the State party to bring its legislation and practice into line with the provisions of the Covenant. The State party is also called upon to provide the Committee with detailed information on the number of persons sentenced to death and the number of convicted persons executed since the year 2000.

16. The Committee is extremely troubled to find that amputation and flagellation, and corporal punishment generally, are still accepted and practised, for this is contrary to article 7 of the Covenant.

The State party must take appropriate action to end these practices and ensure that the Covenant is respected.

17. The Committee is disturbed to note cases of torture and cruel, inhuman or degrading treatment for which law enforcement officers are responsible. It is equally concerned at the absence, in general, of investigations into such reprehensible practices and of punishment for the perpetrators. It is also concerned at the lack of an independent body to investigate such reports (arts. 6 and 7 of the Covenant).

The State party should ensure that all human rights abuses are investigated and should, depending on the findings of the investigations, institute proceedings against the perpetrators of such violations. It should also set up an independent body to investigate such reports.

18. While it understands the security requirements connected with the events of 11 September 2001, the Committee expresses its concern about the effects of this campaign on the human rights situation in Yemen, in relation to both nationals and foreigners. It is concerned, in this regard, at the attitude of the security forces, including Political Security, which arrests and detains anyone suspected of links with terrorism, in violation of the guarantees set out in the Covenant (art. 9). The Committee also expresses its concern about cases of expulsion of foreigners suspected of terrorism without an opportunity for them to legally challenge such measures. Such expulsions are, furthermore, apparently decided on without taking into account the risks to the physical integrity and lives of the persons concerned in the country of destination (arts. 6 and 7).

The State party must ensure that the measures taken in the campaign against terrorism are within the limits of Security Council resolution 1373 (2001) and fully consistent with the provisions of the Covenant. It is requested to ensure that the fear of terrorism does not become a source of abuse.

19. The Committee notes that the independence of the judiciary does not seem to be guaranteed in all circumstances (art. 14).

The State party must free the judiciary of any interference, in accordance with the provisions of the Covenant.

20. The Committee notes with concern the violations of freedom of religion or belief, in particular breaches of the right to change religion (art. 18 of the Covenant).

The State party must ensure that its legislation and practice are in line with the provisions of the Covenant, and in particular respect people's right to change their religion if they so choose.

21. The Committee expresses its concern about some restrictions under Yemeni legislation on freedom of the press and about the difficulties encountered by journalists in practising their profession when they criticise the authorities (art. 19 of the Covenant).

The State party should ensure that the provisions of article 19 of the Covenant are respected.

22. The State party should disseminate widely the text of its third periodic report and the present concluding observations.

23. In accordance with article 70, paragraph 5, of the Committee's rules of procedure, the State party should within one year provide information on the implementation of the Committee's recommendations in paragraphs 6 to 13 concerning the status of women and in paragraph 15 on the number of persons sentenced to death and executed since the year 2000. The Committee requests the State party to provide in its next report, which it is scheduled to submit by 1 August 2004, information on the other recommendations made and on its implementation of the Covenant as a whole.